

Item SP05-07 Response Form

Title: **Permission Required to Publish Judicial Council Jury Instructions** (amend rule 855 of the California Rules of Court)

- ☐ **Agree** with proposed changes
- ☐ **Agree** with proposed changes **if modified**
- ☐ **Do not agree** with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

Address: _____

City, State, Zip: _____

Please **write** or **fax** or **respond using the Internet** to:

Address: Ms. Romunda Price,
Judicial Council, 455 Golden Gate Avenue,
San Francisco, CA 94102
Fax: (415) 865-7664 **Attention:** Romunda Price
Internet: www.courtinfo.ca.gov/invitationstocomment

DEADLINE FOR COMMENT: 5:00 p.m., Friday, July 15, 2005

Your comments may be written on this *Response Form* or directly on the proposal or as a letter. If you are not commenting directly on this sheet please remember to attach it to your comments for identification purposes.

*Circulation for comment does not imply endorsement by the Judicial Council
or the Rules and Projects Committee.
All comments will become part of the public record of the council's action..*

Title	Permission Required to Publish Judicial Council Jury Instructions (amend rule 855 of the California Rules of Court).
Summary	The proposed amendment to rule 855 would require publishers to obtain permission from the Administrative Office of the Courts before publishing the Judicial Council Jury Instructions.
Source	Office of the General Counsel
Staff	Robin Seeley, 415-865-7710, robin.seeley@jud.ca.gov
Discussion	<p>The purpose of the proposed amendment to rule 855 is to keep the Judicial Council Jury Instructions easily accessible to the public while authorizing the Administrative Office of the Courts (AOC) to retain control over how the instructions are published. The rule would allow the AOC to ensure that published instructions accurately describe the role of the council and task force in creating these instructions.</p> <p>The amended rule would require commercial publishers other than the official publisher to obtain permission from the AOC before they may publish the instructions. The requirement would apply to publication on compact disk, in print, electronic, digital, or other format.</p> <p>Another proposed amendment to rule 855 recently circulated for public comment. It proposed deleting the two current references to “civil” instructions in rule 855(e), so that the rule will apply to criminal as well as civil instructions. Because these amendments have not yet been presented to the Judicial Council, they are also shown in the attached text of this additional proposal to amend rule 855.</p>
	Attachment

Rule 855 of the California Rules of Court would be amended effective August 26, 2005, to read:

Rule 855. Judicial Council Jury Instructions

- (a) **[Purpose]** The California jury instructions approved by the Judicial Council are the official instructions for use in the state of California. The goal of these instructions is to improve the quality of jury decision making by providing standardized instructions that accurately state the law in a way that is understandable to the average juror.
- (b) **[Accuracy]** The Judicial Council endorses these instructions for use and makes every effort to ensure that they accurately state existing law. The articulation and interpretation of California law, however, remains within the purview of the Legislature and the courts of review.
- (c) **[Public access]** The Administrative Office of the Courts must provide copies and updates of the approved jury instructions to the public on its Web site. The Administrative Office of the Courts may contract with an official publisher to publish the instructions in both paper and electronic formats. The Judicial Council intends that other commercial publishers must obtain permission from the Administrative Office of the Courts before they may publish the instructions on a compact disc, in print, electronic, digital, or other format. The Administrative Office of the Courts must take the steps necessary to ensure that publication by commercial publishers does not occur without its permission.
- (d) **[Updating and amendments]** The Judicial Council instructions will be regularly updated and maintained through its advisory committees on jury instructions. Amendments to these instructions will be circulated for public comment before publication. Trial judges and attorneys may submit for the advisory committees' consideration suggestions for improving or modifying these instructions or creating new instructions, with an explanation of why the change is proposed. Suggestions should be sent to the Administrative Office of the Courts, Office of the General Counsel.
- (e) **[Use of instructions]** Use of the Judicial Council instructions is strongly encouraged. If the latest edition of the ~~civil~~ jury instructions approved by the Judicial Council contains an instruction applicable to a case and the trial judge determines that the jury should be instructed on the subject, it is recommended that the judge use the Judicial Council instruction unless he or she finds that a different instruction would more accurately state the law and be understood by jurors. Whenever the latest edition of the Judicial Council ~~civil~~ jury instructions does not contain an instruction on a subject on which the trial judge determines that the jury should be instructed, or when a Judicial Council instruction cannot be modified to submit the issue properly, the instruction given on that subject should be accurate, brief, understandable, impartial, and free from argument.